

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**WILMINGTON TRUST, NATIONAL
ASSOCIATION AS TRUSTEE OF THE
\$29,615,000 PHILADELPHIA
AUTHORITY FOR INDUSTRIAL
DEVELOPMENT SENIOR HOUSING
REVENUE BONDS (THE PAVILION),**

Plaintiff,

v.

**PAVILION APARTMENTS PENN LLC,
KIRYAT GREENBRIAR, L.P., ALOFT
MGT, LLC, PF HOLDINGS LLC, ARON
PURETZ,**

Defendants,

and

KIRYAT GREENBRIAR, L.P.,

Cross-Claim Plaintiff,

v.

PAVILION APARTMENTS PENN LLC,

Cross-Claim Defendant.

CIVIL ACTION

NO: 2:22-cv-03985-GJP

Judge Gerald J. Pappert

**NOTICE OF SETTLEMENT, STIPULATED MOTION, AND
[PROPOSED] ORDER FOR SALE OF PROPERTY**

Plaintiff Wilmington Trust, National Association, as Trustee of the \$29,615,000 Philadelphia Authority for Industrial Development Senior Housing Revenue Bonds (“Plaintiff”), Defendants Pavilion Apartments Penn LLC (“Borrower”), Aloft Mgt, LLC (“Aloft”), PF Holdings LLC (“PF Holdings”), Aron Puretz (together the “Pavilion Defendants”), and Defendant and Cross-Claim Plaintiff Kiryat Greenbriar, L.P. (“Ground Lessor”) (together with Plaintiff and the Pavilion Defendants, the “Parties”), hereby jointly move the Court for an order authorizing the sale of the Leasehold Estate by Trigild Inc., by and through Ian Lagowitz (the “Receiver”). In support of their joint motion, the Parties state as follows:

1. The Parties, with the knowledge and consent of the Receiver, have resolved the claims and disputes among them by way of a Settlement Agreement and Release (“Agreement”), subject to certain contingencies to occur following the date of the Agreement. The terms of the Agreement are confidential except to the extent required to effectuate the Agreement, including as reflected in this Joint Motion.¹

2. The Agreement provides, among other things, that the Parties will cooperate in facilitating the sale and conveyance (the “Sale”) of the Leasehold Estate, as defined in paragraph 1 of the Court’s January 3, 2023 Order for Appointment of Receiver (the “Receivership Order”), to a third-party purchaser (the “Purchaser”).

3. The Agreement further provides:

- a. that the Trustee, Greenbriar, and the Receiver shall agree upon and jointly approve the Purchaser of the Leasehold Estate and the terms of the Sale relevant to their respective interests;
- b. that the Pavilion Defendants shall not be entitled to any involvement in the selection and approval of the Purchaser nor in the negotiation of the means or terms of the Sale with the Purchaser;
- c. that the Sale of the Leasehold Estate shall be accomplished by (i) the simultaneous termination of the Ground Lease between Greenbriar and Borrower and entry into a new ground lease between Greenbriar and the Purchaser on terms to be mutually agreed upon between Greenbriar and the Purchaser, by way of, among other things, a Notice of Termination of Ground Lease (the “Termination Notice”), (ii) the simultaneous assignment of the Ground Lease from the Receiver to the Purchaser and execution and delivery of an Amended and Restated Ground Lease between Greenbriar and the Purchaser on terms to be mutually agreed upon between Greenbriar and the Purchaser, or (iii) such alternative means as are agreed to by

¹ All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

Greenbriar, the Receiver, Purchaser, and Trustee, subject to certain necessary third-party approvals;

- d. that Borrower shall execute certain acknowledgements or consents documenting its agreement to allow the Receiver, Trustee, and Greenbriar to proceed with the Sale of the Leasehold Estate by such means as they may determine, as further provided in the Agreement.

4. Pursuant to the Agreement, Borrower has executed an acknowledgement of the Termination Notice and a Consent to the Assignment of Ground Lease, both of which include statements, as applicable, that Borrower does not challenge the termination or assignment of the Ground Lease and that Borrower waives any further rights and interests under the Ground Lease and in the Leasehold Estate. Further, in the event the Trustee, Greenbriar, and/or the Receiver conclude after the date of the Agreement that the intended method for selling the Leasehold Estate is not viable, the Pavilion Defendants agree to use their best efforts to cooperate with the Trustee, Greenbriar, and the Receiver to facilitate the sale or conveyance of the Leasehold Estate on terms and in such manner as the Trustee, Greenbriar, and the Receiver jointly determine.

5. The Agreement includes a stipulation among the Parties as to the application of the proceeds from the Sale.

6. In furtherance of the commitments undertaken by the Parties pursuant to the Agreement, the Parties now seek an order from this Court authorizing the Receiver to enter into such agreements with a Purchaser as the Receiver, the Trustee, and Greenbriar determine are necessary or appropriate to carry out the Sale contemplated by the Agreement.

7. The Parties' Agreement accounts for the alternative scenario in which no Sale occurs by an agreed Deadline (the "No Sale Occurrence"). The Parties anticipate that the No Sale Occurrence may result in the filing of a stipulated judgment of foreclosure, with further steps to follow as set forth in the Agreement and pursuant to applicable law and orders of this Court.

8. The Parties further anticipate dismissing the Lawsuit and moving to terminate the Receivership after the Sale, or in the event of the No Sale Occurrence, after a sale of foreclosure.

9. Accordingly, the Parties hereby jointly request that the Court enter the Proposed Order attached to and filed simultaneously with this Motion.

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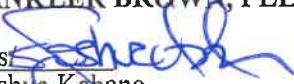
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CIVIL ACTION

NO: 2:22-cv-03985-GJP

Judge Gerald J. Pappert

[PROPOSED] ORDER ON STIPULATED MOTION

Pursuant to the Stipulated Motion of all Parties to this case (ECF ____), the Court hereby orders as follows²:

1. The Receiver is hereby authorized to enter into such agreements with a Purchaser as the Receiver, the Trustee, and Greenbriar determine are necessary or appropriate to carry out the Sale of the Leasehold Estate contemplated by the Agreement, as further detailed in the Stipulated Motion.
2. All other terms of the Receivership Order (ECF 45) shall remain in effect, including paragraph 5 (as to the termination of the Receivership upon the Sale of

² All defined terms herein shall have the same meaning ascribed to them in the Parties' Stipulated Motion.

the Leasehold Estate), paragraph 6 (as to the Receiver's delivery of items to the Purchaser), and paragraph 8 (as to the Receiver's final report and accounting).

IT IS SO ORDERED this ____ day of _____, _____.

**THERE BEING NO JUST REASON FOR DELAY, LET JUDGMENT BE
ENTERED ACCORDINGLY PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 54(b).**

BY THE COURT:

GERALD J. PAPPERT, J.